

United States Court of Appeals For the First Circuit

No. 20-1819

JOEL MATEO,

Plaintiff - Appellant,

v.

UNIVERSITY SYSTEM OF NEW HAMPSHIRE; FRANCES CANNING,

Defendants - Appellees.

Before

Thompson, Selya and Barron,
Circuit Judges.

JUDGMENT

Entered: August 27, 2021

Plaintiff-appellant Joel Mateo appeals from the district court's grant of summary judgment. After de novo review, see Cruz v. Mattis, 861 F.3d 22, 24 (1st Cir. 2017), the court concludes that affirmance is in order for substantially the reasons provided by the district court. With respect to any legal theories that plaintiff now asserts that the district court overlooked, those theories do not appear squarely to have been raised before the district court and cannot now be raised on appeal. See Pomerleau v. W. Springfield Pub. Sch., 362 F.3d 143, 146 (1st Cir. 2004) ("If any principle is settled in this circuit, it is that, absent the most extraordinary circumstances, legal theories not raised squarely in the lower court cannot be broached for the first time on appeal.").

In any event, even if such theories were to be considered, this court would affirm. As to the due process claims or theories that plaintiff asserts that the district court overlooked, plaintiff simply does not establish that the process afforded him was constitutionally insufficient. With respect to the tort claims, plaintiff fails sufficiently to explain why the court should conclude that Frances Canning was acting outside the scope of her employment at relevant points in time.

Accordingly, we summarily affirm. See Local Rule 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

cc:

Joel Mateo

Donald L. Smith

Lynnette Macomber